

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

**Date of Report: March 9, 2020
(Date of earliest event reported)**

T2 Biosystems, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-36571
(Commission
File Number)

20-4827488
(I.R.S. Employer
Identification Number)

101 Hartwell Avenue, Lexington, Massachusetts 02421
(Address of principal executive offices and zip code)

(781) 761-4646
(Registrant's telephone number, including area code)

Not Applicable
(Former Name or Former Address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value \$0.001 per share	TTOO	The Nasdaq Stock Market LLC (Nasdaq Global Market)

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement

On March 9, 2020, T2 Biosystems, Inc. (the “Company”) entered into Amendment No. 1 to Equity Distribution Agreement (“Amendment 1”) with Canaccord Genuity LLC (“Canaccord”), amending the Equity Distribution Agreement dated as of July 30, 2019, between the Company and Canaccord (the “Original Agreement” and, together with Amendment No. 1, the “Equity Distribution Agreement”). Pursuant to the Equity Distribution Agreement, the Company may, from time to time, sell shares of the Company’s common stock, par value \$0.001 per share (“Common Stock”), having an aggregate gross sales amount of up to \$65,000,000 through Canaccord, as the Company’s sales agent. As of March 6, 2020, the Company has sold 35,360,311 shares of Common Stock with an aggregate offering price of approximately \$27.1 million, leaving an aggregate offering price of up to approximately \$37.9 million remaining under the Equity Distribution Agreement (the “ATM Shares”).

The ATM Shares have been registered under the Securities Act of 1933, as amended (the “Securities Act”), pursuant to the Company’s Registration Statement on Form S-3 (File No. 333-227847), declared effective by the Securities and Exchange Commission on October 24, 2018 (the “Registration Statement”), and a prospectus, which consists of a base prospectus, dated October 24, 2018, and a prospectus supplement, dated March 9, 2020. Sales of the ATM Shares, if any, may be made by any method permitted by law deemed to be an “at the market offering” as defined in Rule 415(a) (4) of the Securities Act, including sales made directly on or through The Nasdaq Global Market or any other existing trading market for the ATM Shares, in negotiated transactions at market prices prevailing at the time of sale or at prices related to such prevailing market prices and/or any other method permitted by law. The Company intends to use the net proceeds, if any, from the offering for working capital and general corporate purposes, which may include, among other things, funding commercialization efforts and research and development activities.

The Equity Distribution Agreement contains customary representations, warranties and agreements by the Company, including obligations of the Company to indemnify Canaccord for certain liabilities under the Securities Act. Under the terms of the Equity Distribution Agreement, the Company will pay Canaccord a commission equal to 3.0% of the gross proceeds from sales of the ATM Shares. In addition, the Company has agreed to pay certain expenses incurred by Canaccord in connection with the offering. The Company and Canaccord each have the right, by giving written notice as specified in the Equity Distribution Agreement, to terminate the Equity Distribution Agreement in each party’s sole discretion at any time. The Company has no obligation to sell any ATM Shares under the Equity Distribution Agreement, and may at any time suspend solicitation and offers under the Equity Distribution Agreement.

The foregoing description of the Equity Distribution Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Original Agreement, which was filed as Exhibit 10.1 to the Current Report on Form 8-K filed on July 30, 2019, and Amendment 1, which is filed as Exhibit 10.1 to this Current Report on Form 8-K.

This Current Report on Form 8-K shall not constitute an offer to sell or a solicitation of an offer to buy any securities, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or other jurisdiction.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
5.1	Opinion of Latham & Watkins LLP
10.1	Amendment No. 1 to Equity Distribution Agreement dated as of March 9, 2020 by and between T2 Biosystems, Inc. and Canaccord Genuity LLC.
23.1	Consent of Latham & Watkins LLP (contained in Exhibit 5.1).

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: March 9, 2020

T2 BIOSYSTEMS, INC.

By: /s/ John Sperzel

Name: John Sperzel

Title: President and Chief Executive Officer

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 Boston, Massachusetts 02116
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LATHAM & WATKINS LLP

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March 9, 2020

T2 Biosystems, Inc.
 101 Hartwell Ave.
 Lexington, MA 02421

File No. 042073-0033

Re: Registration Statement on Form S-3 (File No. 333-227847); Shares of Common Stock, par value \$0.001 per share, having an aggregate offering price of up to \$65,000,000

Ladies and Gentlemen:

We have acted as special counsel to T2 Biosystems, Inc., a Delaware corporation (the “**Company**”), in connection with the sale by the Company of shares (the “**Shares**”) of common stock of the Company, par value \$0.001 per share (the “**Common Stock**”), having an aggregate offering price of up to \$65,000,000, pursuant to (i) a registration statement on Form S-3 under the Securities Act of 1933, as amended (the “**Act**”), filed with the Securities and Exchange Commission (the “**Commission**”) on October 15, 2018 (File No. 333-227847) (as so filed and as amended, the “**Registration Statement**”), (ii) the base prospectus dated October 24, 2018 included in the Registration Statement (the “**Base Prospectus**”), (iii) a prospectus supplement dated March 9, 2020 filed with the Commission pursuant to Rule 424(b) under the Act (together with the Base Prospectus, the “**Prospectus**”), and (iv) that certain Equity Distribution Agreement, dated as of July 30, 2019, as amended on March 9, 2020, by and between the Company and Canaccord Genuity LLC (the “**Sales Agreement**”).

This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or the Prospectus, other than as expressly stated herein with respect to the issue of the Shares.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein as to the General Corporation Law of the State of Delaware (the “**DGCL**”), and we express no opinion with respect to the applicability thereto, or the effect thereon, of the laws of any other jurisdiction or, in the case of Delaware, any other laws, or as to any matters of municipal law or the laws of any local agencies within any state.

LATHAM & WATKINS LLP

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, upon the completion of all Corporate Proceedings (as defined below) relating to the Shares, when the Shares shall have been duly registered on the books of the transfer agent and registrar therefor in the name or on behalf of the purchasers, upon issuance, delivery and payment therefor in an amount not less than the par value thereof in accordance with the Corporate Proceedings and the terms of Sales Agreement, the Shares to be issued and sold by the Company pursuant to the Sales Agreement will be duly authorized by all necessary corporate action of the Company, and such Shares will be validly issued, fully paid and nonassessable. In rendering the foregoing opinion, we have assumed that (i) the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the DGCL, (ii) upon the issue of any of the Shares, the total number of shares of Common Stock issued and outstanding will not exceed the total number of shares of Common Stock that the Company is then authorized to issue under its Restated Certificate of Incorporation and (iii) certain terms of the Shares to be issued by the Company from time to time will be authorized and approved by the Board of Directors of the Company or one or more committees thereof established by the Board of Directors with the authority to issue and sell Shares pursuant to the Sales Agreement in accordance with the DGCL, the Restated Certificate of Incorporation of the Company, the Amended and Restated Bylaws of the Company and certain resolutions of the Board of Directors and one or more committees thereof (with such approvals referred to herein as the “**Corporate Proceedings**”) prior to issuance thereof.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Act. We consent to your filing this opinion as an exhibit to the Company’s Form 8-K dated March 9, 2020 and to the reference to our firm contained in the Prospectus under the heading “Legal Matters.” In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ LATHAM & WATKINS LLP

AMENDMENT NO. 1 TO EQUITY DISTRIBUTION AGREEMENT

March 9, 2020

Canaccord Genuity LLC
99 High Street, Suite 1200
Boston, Massachusetts 02110

Ladies and Gentlemen:

This Amendment No. 1 to the Equity Distribution Agreement (this "Amendment") is entered into as of the date first written above by T2 Biosystems, Inc., a Delaware corporation (the "Company"), and Canaccord Genuity LLC ("Canaccord"), that are parties to that certain Equity Distribution Agreement, dated July 30, 2019 (the "Original Agreement"). All capitalized terms not defined herein shall have the meanings ascribed to them in the Original Agreement. The parties, intending to be legally bound, hereby amend the Original Agreement as follows:

1. Section 1 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

"Issuance and Sale of Shares. The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it will issue and sell through Canaccord, acting as sales agent, shares of common stock, \$0.001 par value per share (the "Common Shares"), of the Company (the "Shares") having an aggregate offering price of up to \$65,000,000. The Shares will be sold on the terms set forth herein at such times and in such amounts as the Company and Canaccord shall agree from time to time. The issuance and sale of the Placement Shares (as defined below) through Canaccord will be effected pursuant to the Registration Statement (as defined in Section 6(a)) filed by the Company and declared effective by the United States Securities and Exchange Commission (the "Commission").

2. In addition to the reimbursement of expenses set forth in Section 7(h)(ii) of the Original Agreement, the Company shall reimburse Canaccord for all of its reasonable and documented expenses, up to a maximum reimbursement of \$25,000, arising out of this Amendment (including travel and related expenses, the costs of document preparation, production and distribution, third party research and database services and the reasonable and documented fees and disbursements of counsel to Canaccord) within ten (10) days of the presentation by Canaccord to the Company of a reasonably detailed statement therefor.

3. The Company represents and warrants to, and agrees with Canaccord that this Amendment has been duly authorized, executed and delivered by, and is a valid and binding agreement of, the Company, enforceable in accordance with its terms, except as rights to indemnification hereunder may be limited by applicable law and except as the enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors or by general equitable principles.

4. This Amendment together with the Original Agreement (including all schedules and exhibits attached hereto and thereto and Placement Notices issued pursuant hereto and thereto) constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof. Neither this Amendment nor any term hereof may be amended except pursuant to a written instrument executed by the Company and Canaccord. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Amendment. All references in the Original Agreement to the "Agreement" shall mean the Original Agreement as amended by this Amendment; *provided, however*, that all references to "date of this Agreement" in the Original Agreement shall continue to refer to the date of the Original Agreement.

5. Except as set forth in this Amendment, all the terms and provisions of the Original Agreement shall continue in full force and effect.

6. The Company shall file a Prospectus Supplement pursuant to 424(b) of the Securities Act reflecting this Amendment within two (2) Business Days of the date hereof.

7. This Amendment shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to the principles of conflicts of laws. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, borough of Manhattan, for the adjudication of any dispute hereunder or in connection with any transaction contemplated hereby, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof (certified or registered mail, return receipt requested) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law.

8. The Company and Canaccord hereby irrevocably waive any right either may have to a trial by jury in respect of any claim based upon or arising out of this agreement or any transaction contemplated hereby.

9. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Amendment by one party to the other may be made by facsimile or email transmission.

[Remainder of Page Intentionally Blank]

If the foregoing correctly sets forth the understanding between the Company and Canaccord, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding amendment to the Original Agreement between the Company and Canaccord.

Very truly yours,

CANACCORD GENUITY LLC

By: /s/ Jennifer Pardi

Name: Jennifer Pardi

Title: Sr. Managing Director

**ACCEPTED as of the date
first-above written:**

T2 BIOSYSTEMS, INC.

By: /s/ John J. Sperzel III

Name: John J. Sperzel III

Title: Chief Executive Officer